

U.S. Application No. 09/768,253

Docket No. 1982-0163P

Filed: October 21, 2004

Art Unit: 2612

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**REMARKS**

Favorable reconsideration and allowance of the present application are respectfully requested in view of the following remarks. Claims 1-20 remain pending. Claims 1, 9, and 15 are independent.

**OBJECTION TO THE SPECIFICATION**

The Specification is objected to for minor informalities. See Office Action, page 2, Item 1. More specifically, the Examiner asserts that the Title of the Invention is not descriptive. The Title has been amended to address this issue. Applicant respectfully request that the objection to the Specification be withdrawn.

**OBJECTION TO THE CLAIMS**

Claims 5 and 17 stand objected to for minor informalities. See Office Action, page 2, Item 2. These claims have been amended to address this issue. Also, the claims have been amended to address other informalities including antecedent basis issues. Applicant respectfully requests that the objection to the claims be withdrawn.

§ 103 REJECTION - SAKAEGI, HIRASAWA

In the Office Action, it is stated that claims 1-18 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Sakaegi, et al. (USP 6,266,083, hereinafter "Sakaegi") in view of Hirasawa (USP 5,424,776). *See Office Action, page 3, Item 4.* It is noted that claims 19 and 20 are rejected along with claims 7 and 8, respectively, in the same discussion. *See Office Action, page 13, Items 17 and 18.* Therefore, Applicant assumes that claims 19 and 20 are also rejected over Sakaegi in view of Hirasawa. As such, Applicant respectfully traverses.

For a Section 103 rejection to be proper, a *prima facie* case of obviousness must be established. *See M.P.E.P. 2142.* One requirement to establish *prima facie* case of obviousness is that the prior art references, when combined, must teach or suggest all claim limitations. *See M.P.E.P. 2142; M.P.E.P. 706.02(j).* Thus, if the cited references fail to teach or suggest one or more elements, then the rejection is improper and must be withdrawn.

In this instance, independent claim 1 recites, in part "the logic causing the controller to commence moving the lens groups to initialization positions and ... if a command is received for

image recording before the lens groups have arrived at the initialization positions, control the memory to store data in accordance with the electronic information presently available from the image sensor." Independent claims 9 and 15 recite a similar feature. As recited in the independent claims, the image recording can take process even if the lens groups have not arrived at their initialization positions.

In the Office Action, the Examiner relies upon Sakaegi to teach this feature, at least with regard to a single lens. In other words, the Examiner asserts that Sakaegi teaches the performing image recording process even before the single lens has arrived at its initialization position. As will be demonstrated below, the Examiner's reliance on Sakaegi is misplaced.

Sakaegi is directed toward an image pickup apparatus capable of picking up and recording a still image at high speed without using an interruption routine. *See Sakaegi, column 1, lines 17-19.* In the Office Action, the Examiner asserts that Sakaegi discloses the lens barrel 2 is movable along an optical axis. Contrary to the Examiner's assertion, Sakaegi is entirely silent regarding whether or not the lens barrel 2 is movable at

all. Thus, Sakaegi cannot be relied upon to teach or suggest movable lens groups of any type.

However, for the sake of arguments, Applicant assumes that the Examiner's assertion is true regarding the movability of the lens barrel, and more specifically to the single lens contained within the lens barrel. The Examiner also asserts that, at start up, the camera automatically adjusts the single lens to an in-focus position from a default out-of-focus position. The Examiner asserts that the in-focus position is equivalent to the initialization position as claimed. *See Office Action, page 5, lines 2-6.* Again, if these assertions are taken to be true, then Sakaegi must teach that recording an image is possible while moving from the out-of-focus position to in-focus position.

However, it is clear that Sakaegi is entirely silent regarding this feature. Indeed, Sakaegi teaches away from this feature. Further in the Office Action, the Examiner asserts that they exist and "initial status" and a "predetermined status" in Sakaegi. Sakaegi discloses that the initial status may mean an initial lens focus position, i.e. the out-of-focus default position, in case of an auto focus mechanism. *See Sakaegi, column 10, lines 63-64.* Along similar lines, Sakaegi discloses

that the predetermined status main mean that an in-focus state is achieved in case of the auto focus mechanism. See column 11, lines 2-3.

However, Sakaegi is entirely silent regarding whether or not image recording can take place during the transition between the out-of-focus state and the in-focus state. Instead, Sakaegi discloses only that a white balance adjustment may be executed during this time. See column 10, lines 59-62. This occurs at step at S581 in Figure 4A-2.

Indeed, the only time when the image recording takes place occurs in steps S60, S61, and S62. See Figure 4A-2. It is noted that these steps to record images takes place after the white balance adjustment is completed in step S581. In other words, the recording of images takes place only after the transition of the focusing from the initial status to the predetermined status is completed. Clearly, even if the Examiner's assertions are taken to be true regarding the lens positions, the recording of the image only takes place after moving of the lens is completed. Therefore, Sakaegi cannot teach or suggest at least the above recited feature of the independent claims and actually teaches away from the claimed feature.

Hirasawa has not been, and indeed cannot be, relied upon to cure at least this deficiency of Sakaegi. Therefore, independent claims 1, 9, and 15 are distinguishable over the combination of Sakaegi and Hirasawa.

Claims 2-8, 10-14, and 16-20 depend from independent claims 1, 9, or 15 directly or indirectly. Therefore, for at least the reasons stated with respect to the independent claims, these dependent claims are also distinguishable over the combination of Sakaegi and Hirasawa.

Applicant respectfully requests that the rejection of claims 1-20 based on Sakaegi and Hirasawa be withdrawn.

#### CONCLUSION

All objections and rejections raised in the Office Action having been addressed, it is respectfully submitted that the present application is in condition for allowance. Should there be any outstanding matters that need to be resolved, the Examiner is respectfully requested to contact Hyung Sohn (Reg. No. 44,346), to conduct an interview in an effort to expedite prosecution in connection with the present application.

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If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17; particularly, extension of time fees.

Respectfully submitted,

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